

Senate Engrossed

FILED

**JANICE K. BREWER
SECRETARY OF STATE**

State of Arizona
Senate
Forty-seventh Legislature
Second Regular Session
2006

CHAPTER 36

SENATE BILL 1255

AN ACT

AMENDING SECTION 33-422, ARIZONA REVISED STATUTES; RELATING TO CONVEYANCES
AND DEEDS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 33-422, Arizona Revised Statutes, is amended to read:

33-422. Land divisions; recording; disclosure affidavit

A. A seller of five or fewer parcels of land, other than subdivided land, in an unincorporated area of a county and any subsequent seller of such a parcel shall furnish a written affidavit of disclosure to the buyer, at least seven days before the transfer of the property, and the buyer shall acknowledge receipt of the affidavit.

B. The affidavit must be written in twelve point type.

C. No release or waiver of a seller's liability arising out of any omission or misrepresentation contained in an affidavit of disclosure is valid or binding on the buyer.

D. The buyer has the right to rescind the sales transaction for a period of five days after the affidavit of disclosure is furnished to the buyer.

E. The seller shall record the executed affidavit of disclosure at the same time that the deed is recorded. The county recorder is not required to verify the accuracy of any statement in the affidavit of disclosure. A subsequently recorded affidavit supersedes any previous affidavit.

F. The affidavit of disclosure shall meet the requirements of section 11-480 and follow substantially the following form:

When recorded mail to:

Affidavit of Disclosure
Pursuant to A.R.S. §33-422

I, _____ (seller(s))
being duly sworn, hereby make this affidavit of disclosure
relating to the real property situated in the unincorporated
area of:

_____, County, State of Arizona, located at:

and legally described as:

(Legal description attached hereto as exhibit "A")
(property).

1. There ☐ is ☐ is not....legal access to the property, as
defined in A.R.S. § 11-809....☐ unknown

Explain: _____

- 1 2. There ☐ is ☐ is not....physical access to the property.
2 ☐ unknown
3 Explain: _____
4 _____
5 _____
- 6 3. There ☐ is ☐ is not....a statement from a licensed surveyor or
7 engineer available stating whether the property has physical
8 access that is traversable by a two-wheel drive passenger motor
9 vehicle.
- 10 4. The legal and physical access to the property ☐ is ☐ is
11 not....the same....☐ unknown ☐ not applicable.
12 Explain: _____
13 _____
14 _____
- 15 *If access to the parcel is not traversable by emergency*
16 *vehicles, the county and emergency service providers may not be*
17 *held liable for any damages resulting from the inability to*
18 *traverse the access to provide needed services.*
- 19 5. The road(s) is/are ☐ publicly maintained ☐ privately
20 maintained ☐ not maintained ☐ not applicable. If applicable,
21 there ☐ is ☐ is not....a recorded road maintenance agreement.
22 *If the roads are not publicly maintained, it is the*
23 *responsibility of the property owner(s) to maintain the roads*
24 *and roads that are not improved to county standards and accepted*
25 *for maintenance are not the county's responsibility.*
- 26 6. A portion or all of the property ☐ is ☐ is not....located in a
27 FEMA designated regulatory floodplain. If the property is in a
28 floodplain, it may be subject to floodplain regulation.
- 29 7. THE PROPERTY ☐ IS ☐ IS NOT SUBJECT TO ☐ FISSURES OR
30 ☐ EXPANSIVE SOILS. ☐ UNKNOWN
31 EXPLAIN: _____
32 _____
33 _____
- 34 ~~7-~~ 8. The following services are currently provided to the property:
35 ☐ water ☐ sewer ☐ electric ☐ natural gas ☐ single
36 party telephone ☐ cable television services.
- 37 ~~8-~~ 9. The property is served by ☐ a private well ☐ a shared well
38 ☐ no well. If served by a shared well, the shared well ☐ is
39 ☐ is not....a public water system, as defined by the safe
40 drinking water act (42 United States Code § 300f).
- 41 ~~9-~~ 10. The property ☐ does have ☐ does not have an
42 on-site wastewater treatment facility (i.e., standard septic or
43 alternative system to treat and dispose of wastewater).
44 ☐ unknown. If applicable: a) The property ☐ will ☐ will not
45 require installation of an on-site wastewater treatment

1 facility; b) The on-site wastewater treatment facility ☐ has
2 ☐ has not been inspected.

3 ~~10-~~ 11. The property ☐ has been ☐ has not been subject to a
4 percolation test. ☐ unknown.

5 ~~11-~~ 12. The property ☐ does ☐ does not....meet the minimum
6 applicable county zoning requirements of the applicable zoning
7 designation.

8 ~~12-~~ 13. The sale of the property ☐ does ☐ does not....meet the
9 requirements of A.R.S. § 11-809 regarding land divisions. If those
10 requirements are not met, the property owner may not be able to
11 obtain a building permit. The seller or property owner shall
12 disclose each of the deficiencies to the buyer.

13 Explain: _____

14 _____
15 _____

16 ~~13-~~ 14. The property ☐ is ☐ is not located in the clear zone of
17 a military airport or ancillary military facility, as defined in
18 A.R.S. § 28-8461. (Maps are available at the state real estate
19 department's web site.)

20 ~~14-~~ 15. The property ☐ is ☐ is not located in the high noise or
21 accident potential zone of a military airport or ancillary military
22 facility, as defined in A.R.S. § 28-8461. (Maps are available at
23 the state real estate department's web site.)

24 ~~15-~~ 16. Notice: If the property is located within the territory in
25 the vicinity of a military airport or ancillary military facility
26 the property is required to comply with sound attenuation standards
27 as prescribed by A.R.S. § ~~28-2482~~ 28-8482. (Maps are available at
28 the state real estate department's web site.)

29 ~~16-~~ 17. The property ☐ is ☐ is not located under military
30 restricted airspace. ☐ unknown. (Maps are available at the state
31 real estate department's web site.)

32 This affidavit of disclosure supersedes any previously recorded
33 affidavit of disclosure.

34 I certify under penalty of perjury that the information
35 contained in this affidavit is true, complete and correct
36 according to my best belief and knowledge.

37 Dated this ____ (date) ____ day of ____ (year) ____ by:

38 Seller's name (print): _____ Signature: _____

39 Seller's name (print): _____ Signature: _____

40 State of Arizona)

41) ss.

42 County of _____)

Subscribed and sworn before me this ____ (date) day of
____ (year), by _____.

3 _____
4 Notary public

5 My commission expires:
6 _____ (date)

7 Buyer(s) hereby acknowledges receipt of a copy of this affidavit
8 of disclosure this _____ (date) day of _____ (year)

9 Buyer's name (print): _____ Signature: _____

10 Buyer's name (print): _____ Signature: _____

11 G. For the purposes of this section, seller and subsequent seller do
12 not include a trustee of a deed of trust who is selling property by a
13 trustee's sale pursuant to title 33, chapter 6.1 or any officer who is
14 selling property by execution sale pursuant to title 12, chapter 9 and title
15 33, chapter 6. If the seller is a trustee of a subdivision trust as defined
16 in section 6-801 the disclosure affidavit required by this section shall be
17 provided by the beneficiary of the subdivision trust.

~~APPROVED BY THE GOVERNOR MARCH 31, 2006.~~

FILED IN THE OFFICE OF THE SECRETARY OF STATE MARCH 31, 2006.

